

Practitioner's Docket No. 2373/103

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Richard Courthope Giles, Harley Lawson Pederick  
Application No.: 09/936,280 Group No.: 3643  
Filed: 03/10/2000  
For: Tree Harvesting Apparatus

Mail Stop PCT  
Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Attention: Office of PCT Legal Administration

## EXPRESS MAIL CERTIFICATE

"Express Mail" label number EV 333084275 US  
Date of Deposit 11/05/2003

I hereby state that the following *attached* papers are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10, on the date indicated above and is addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration P.O. Box 1450, Alexandria, VA 22313-1450, Attention: Office of PCT Legal Administration:

Renewed Petition Under 37 CFR 1.181, including the following:

- 1) A statement attesting that a search of the file jacket and docket records indicates that the Office Action was not received by the practitioner;
- 2) Two docket record reports where the non-received Office action would have been entered had it been received, the first report showing all docket records for the response deadline and the second report showing all entries for this application;
- 3) Newly executed declaration identifying the corrected filing date of the international application and corrected page numbers;
- 4) Authorization to charge Deposit Account no. 19-4972 for \$130 petition fee and any additional fees that may be due; and
- 5) A copy of the Decision on Petition Under 37 CFR 1.181 dated September 5, 2003.

Kenneth S. Sachar

  
Signature of person mailing paper or fee

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Giles, et al.

Atty. Docket: 2373/103

Application No.: 09/936,280

Date: November 5 2003

Int'l Appl. No.: PCT/AU00/00171

Int'l Filing Date: 10 March 2000

For: TREE HARVESTING APPARATUS

\*\*\*\*\*

**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service in an envelope as "Express Mail Post Office to Addressee", mailing Label Number EV333084275 US, addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450 on November 5, 2003.



Kenneth S. Sachar

\*\*\*\*\*

Mail Stop PCT  
Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Attn: Office of PCT Legal Administration

**RENEWED PETITION UNDER 37 CFR 1.181**

Dear Sir:

This petition is being filed to request reconsideration of the "Petition to Reset Period For Response Due to Non-Receipt of Action" filed with the United States Patent and Trademark Office on November 5, 2002. The decision on that petition held that a showing to establish nonreceipt of an Office communication lacked 1) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received and 2) a copy of the docket records where the non-received Office action would have been entered had it been received.

I searched the 2373/103 file jacket and did not find a Notification of Missing Requirements. I also examined the Bromberg & Sunstein docket record covering all matters for a due date of December 30, 2001, corresponding to the due date of a response to a Notification of Missing Requirements mailed on October 30, 2001. If a Notification of Missing Requirements for application 09/936,280 (docket number 2373/103) had been received, receipt would have resulted in an entry under December 30, 2001 and would have appeared on page 5 of the enclosed report entitled, "Prosecution History Report, Complete docket history of Bromberg & Sunstein for December 30, 2001." I found no entry requiring action associated with 2373/103 for December 30, 2001.

In addition, I examined the prosecution history for the entire docket corresponding to the 2373/103 matter. If a Notification of Missing Requirements for application 09/936,280 (docket number 2373/103) had been received, receipt would have resulted in an entry on December 30, 2001 and would have appeared on Page 3 of the enclosed report entitled, "Prosecution History Report, Complete docket of Application No. 09/936,280, All Deadlines." I found no entry of a Notification of Missing Requirements.

The Office action also required submission of a new declaration in compliance with 37 CFR 1.497(a)-(b) and 37 CFR 1.63. A new declaration in compliance is enclosed with this petition.

In view of the satisfaction of the requirements conveyed in the decision of September 5, 2003 with respect to the "Petition to Reset Period for Response Due to Non-Receipt of Action" submitted on November 5, 2002, Applicant requests that the period for responding to the Notification of Missing Requirements be restarted, and the Completion of Filing Requirements be considered as received on time.

Please charge the petition fee of \$130.00 to Deposit Account 19-4972. If any additional fees are required, you are hereby authorized to charge Deposit Account 19-4972.

Dated: November 5, 2003

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kenneth S. Sachar", written in a cursive style.

Kenneth S. Sachar

Registration No. 54,418

Attorney for Applicant

Bromberg & Sunstein LLP  
125 Summer Street  
Boston, MA 02110-1618  
(617) 443-9292

02373/00103 274927.1

Tuesday, September 09, 2003

## Prosecution History

Page 1

Client Matter#	Country	Attorney	Due Date	Reason for Date/Indicator	Action	Application	Filing	Status
0917.153	US	SGS	30-Dec-2001	INST TO FILE CONT/DIV APPL? Due Date 10-Dec-2001	US-ALLOWANCE	09/072,242	04-May-1998	Issued
		VEL	<b>Resp. Sent</b>	<b>Date Taken:</b> 10-Dec-2001				
0917.153	US	SGS	30-Dec-2001	PAY FEE- 2 MON (chk formals) Due Date 10-Dec-2001	US-ALLOWANCE	09/072,242	04-May-1998	Issued
		VEL	<b>Resp. Sent</b>	<b>Date Taken:</b> 10-Dec-2001				
0917.153	US	SGS	30-Dec-2001	File PTA Correction (reminder) Due Date 10-Dec-2001	US-ALLOWANCE	09/072,242	04-May-1998	Issued
		VEL	<b>Resp. Sent</b>	<b>Date Taken:</b> 10-Dec-2001				
1050.116	US	KLW TMM	30-Dec-2001	Tax 3.5 (HD) Due Date 01-Jan-1111	Tax 3.5 (HD)	08/567,325	05-Dec-1995	Issued
1062.A52	EP	EPM NSJ	30-Dec-2001	PATENT WORKING? Due Date 01-Jan-1111	PATENT WORKING?	90 907 593.9	27-Apr-1990	Granted
			<b>Date Taken:</b> 01-Jan-1111					
1062.B14	US	TMM NSJ EPM	30-Dec-2001	Tax 3.5 (HD) Due Date 11-Jul-2001	Tax 3.5 (HD)	08/472,212	07-Jun-1995	Issued
1062.C08	WO	JJS	30-Dec-2001	National Phase - 30 months (HD)	National Phase - 30 months	99/29183	09-Dec-1999	Entered
					NSJ	Due Date		
1062.C27	US	JLC NSJ	30-Dec-2001	2 MON EXTENSION Due Date 16-Oct-2001	US-OA	09/524,931	14-Mar-2000	Issued
			<b>Resp. Sent</b>	<b>Date Taken:</b> 16-Oct-2001				

## Prosecution History

Client Matter#	Country	Attorney	Due Date	Reason for Date/ Indicator	Action	Application	Filing	Status
1062.C51	US	SJP NSJ KS	30-Dec-2001	RECD IDS RETURN PC? Due Date	US-SENT IDS	09/866,888	29-May-2001	Published
1118.126	US	RMA KLW	30-Dec-2001	Tax 3.5 (HD) Due Date	Date Taken: 14-Jan-2002 Tax 3.5 (HD)	683,233	18-Jul-1996	Issued
1118.171	JP	AJS KLW	30-Dec-2001	Sent application to cl? Due Date	JP-NP INST TO FA	2000-620866	01-Jun-2000	Published
1348.105	US	RMA KLW	30-Dec-2001	Sent copy of recordals to cl? Due Date	Date Taken: 09-Jan-2002 US-SENT ASSIGNMENT	09/300,633	27-Apr-1999	Issued
1464.149	US	BJC TMM DD	30-Dec-2001	ORDER FORMAL DRAWINGS Due Date	Date Taken: 14-Dec-2001 US-OA	09/834,987	13-Apr-2001	Abandoned
1464.149	US	BJC TMM DD	30-Dec-2001	OA to cl? Due Date	US-OA	09/834,987	13-Apr-2001	Abandoned
1585.L08	US	WJS	30-Dec-2001	Rec'd Return Receipt Due Date	SENT ISSUED PATENT TO CL	09/399,006	17-Sep-1999	Transfer
1822.113	US	KLW TMM KLW CS	30-Dec-2001	Amendment for Pub Ddln Due Date	Date Taken: 11-Jan-1111 US-FILING RECEIPT ISSUED	09/918,702	31-Jul-2001	Published

## Prosecution History

Client Matter#	Country	Attorney	Due Date	Reason for Date/ Indicator	Action	Application	Filing	Status
1822.117	US	TMM KLW CS	30-Dec-2001	Recd Email of Formal Drawings? Due Date	FORMALS TO GALLAGHER  Date Taken: 21-Nov-2001	09/995,452	27-Nov-2001	Published
1822.117	WO	TMM KLW CS	30-Dec-2001	Recd Email of Formal Drawings? Due Date	FORMALS TO GALLAGHER  Date Taken: 11-Feb-200	IB01/02858	27-Nov-2001	Transfer
1832.101	US	AJS KLW	30-Dec-2001	NORA to cl? Due Date	US-SENT ASSIGNMENT  Date Taken: 13-Dec-2001	60/298,783	15-Jun-2001	Withdrawn
1920.107	WO	JJS VEL	30-Dec-2001	Recd NP instructs fr cl? Due Date	PCT-SENT PCT-ENP LTR  Date Taken: 25-Mar-2002	00/27206	02-Oct-2000	Entered
1945.A14	WO	SJP NSJ	30-Dec-2001	NP INSTRUCTIONS FR CL??? Due Date	NP INSTRUCTIONS FR CL???  Date Taken: 01-Jan-1111	00/20347	26-Jul-2000	Entered
1945.A14	WO	SJP NSJ	30-Dec-2001	Chapt II Natl Phase 29 Due Date	PCT-CHAPTER II (Dkt Priority)  Date Taken: 01-Jan-1111	00/20347	26-Jul-2000	Entered
2119.104	US	AJS VEL	30-Dec-2001	RECD IDS RETURN PC? Due Date	US-SENT IDS  Date Taken: 26-Dec-2001	09/893,311	27-Jun-2001	Published

## Prosecution History

Client Matter#	Country	Attorney	Due Date	Reason for Date/ Indicator	Action	Application	Filing	Status
2190.102	US	JTK DD	30-Dec-2001	2 MON EXTENSION Due Date	US-OA	09/260,243	02-Mar-1999	Pending
			<b>Resp. Sent</b>	30-Jan-2002	Date Taken: 30-Jan-2002			
2204.C19	US	JTK NSJ	30-Dec-2001	Application Filed? Due Date	New Matter Docketed	10/052,128	17-Jan-2002	Transfer
					Date Taken: 17-Jan-2002			
2204.C19	US	JTK NSJ	30-Dec-2001	Rec'd dec and AZ from client? Due Date	New Matter Docketed	10/052,128	17-Jan-2002	Transfer
					Date Taken: 17-Jan-2002			
2209.102	US	WJS VEL	30-Dec-2001	1 MON EXTENSION Due Date	US-OA	09/390,055	03-Sep-1999	Abandoned
			<b>Resp. Sent</b>	26-Feb-2002	Date Taken: 26-Feb-2002			
2229.104	JP	JLC NSJ	30-Dec-2001	Rec'd application as Due Date	JP-NP INST TO FA	2001-505440	27-Jan-2000	Published
					Date Taken: 26-Dec-2001			
2229.104	KR	JLC NSJ	30-Dec-2001	Rec'd official Ntc App Due Date	KR-NP INST TO FA	2001-701613	27-Jan-2000	Published
					Date Taken: 14-Jan-2002			
2229.104	KR	JLC NSJ	30-Dec-2001	Rec'd application as Due Date	KR-NP INST TO FA	2001-701613	27-Jan-2000	Published
					Date Taken: 14-Jan-2002			
2229.104	MX	JLC NSJ	30-Dec-2001	Formal Drawings filed(w/n 2)? Due Date	MX-NP INST TO FA	2001/013007	27-Jan-2000	Pending
					Date Taken: 30-Nov-2001			
2229.104	NZ	JLC NSJ	30-Dec-2001	Rec'd application as Due Date	NZ-NP INST TO FA	516105	27-Jan-2000	Issued
					Date Taken: 22-Jan-2002			



## Prosecution History

Client Matter#	Country	Attorney	Due Date	Reason for Date/ Indicator	Action	Application	Filing	Status
2229.104	NZ	JLC NSJ	30-Dec-2001	Rec'd filing receipt? Due Date	NZ-NP INST TO FA	516105	27-Jan-2000	Issued
2282.110	WO	RMA NSJ	30-Dec-2001	ISR TO CL? Due Date	<b>Date Taken:</b> 22-Jan-2002 PCT-ISR	01/07419	08-Mar-2001	Entered
					<b>Date Taken:</b> 14-Jan-2002			
2418.116	CA	JJS KLW	30-Dec-2001	Assign to fa for filing? Due Date	Assignment fr fa for execution	2,361,413	04-Feb-2000	Pending
2418.116	CA	JJS KLW	30-Dec-2001	Rec'd assign from client? Due Date	<b>Date Taken:</b> 25-Jan-2002 Assignment fr fa for execution	2,361,413	04-Feb-2000	Pending
2418.117	CA	JJS KLW	30-Dec-2001	Executed Assignment to Due Date	<b>Date Taken:</b> 17-Jan-2002 Assignment fr fa for execution	2,361,474	04-Feb-2000	Pending
2418.117	CA	JJS KLW	30-Dec-2001	Rec'd dated az from Due Date	<b>Date Taken:</b> 25-Jan-2002 Assignment fr fa for execution	2,361,474	04-Feb-2000	Pending
2418.118	CA	JJS KLW	30-Dec-2001	Assign to fa for filing? Due Date	<b>Date Taken:</b> 17-Jan-2002 Assignment fr fa for execution	2,361,410	04-Feb-2000	Pending
2418.118	CA	JJS KLW	30-Dec-2001	Rec'd dated az from Due Date	<b>Date Taken:</b> 25-Jan-2002 Assignment fr fa for execution	2,361,410	04-Feb-2000	Pending
					<b>Date Taken:</b> 17-Jan-2002			

## Prosecution History

Client Matter#	Country	Attorney	Due Date	Reason for Date/ Indicator	Action	Application	Filing	Status
2418.119	CA	JJS	30-Dec-2001	Rec'd dated az from	Assignment fr fa for execution	2,361,477	04-Feb-2000	Pending
		KLW		Due Date	Date Taken: 17-Jan-2002			
2418.127	US	JJS	30-Dec-2001	RECD FILING	US-APPL FILED (PG PUB)	09/943,454	30-Aug-2001	Abandoned
		KLW		Due Date				
2447.101	EP	JTK	30-Dec-2001	FA conf receipt of prior	Date Taken: 17-Sep-2001 09/023,636 2/13/98 EP-DIR FILING INSTRUCTS TO FA	00310025.2	10-Nov-2000	Transfer
		NSJ		Due Date	Date Taken: 02-Jan-2001			
2470.108	US	EPM	30-Dec-2001	NORA to cl?	US-SENT ASSIGNMENT	09/945,902	04-Sep-2001	Published
		KLW		Due Date				
2480.102	US	EPM	30-Dec-2001	Submit Formal(s) for pub (HD)	Date Taken: 12-Dec-2001 Submit Formal(s) for pub (HD)	10/012,691	30-Oct-2001	Published
		VEL		Due Date				
2480.102	WO	EPM	30-Dec-2001	REC'D NOTICE APP	Date Taken: 01-Jan-1111 PCT-APPLICATION FILED	01/47999	30-Oct-2001	NotEntered
		VEL		Due Date				
2486.104	US	BJC	30-Dec-2001	Recd Recordal of AZ?	Date Taken: 11-Mar-200 US-SENT ASSIGNMENT	60/299,277	19-Jun-2001	LetAbandon
		DD		Due Date				
		EPM						
2544.103	US	TMM	30-Dec-2001	Formal Drawings Due?	Date Taken: 15-Oct-2001 US-MISSING PARTS	09/936,772	06-Mar-2000	LetAbandon
		NSJ		Due Date				
			Resp. Sent	21-Feb-2002	Date Taken: 01-Jan-1111			

## Prosecution History

Client Matter#	Country	Attorney	Due Date	Reason for Date/ Indicator	Action	Application	Filing	Status
2544.103	US	TMM	30-Dec-2001	MISSING PARTS DUE (HD)	US-MISSING PARTS	09/936,772	06-Mar-2000	LetAbandon
		NSJ		Due Date 21-Feb-2002	Date Taken: 21-Feb-2002			
2544.110	WO	TMM	30-Dec-2001	National Phase -30 months (HD)	National Phase -30 months (HD)	EP00/05863	23-Jun-2000	Entered
		NSJ		Due Date				
2550.107	US	IJS	30-Dec-2001	2 MON EXTENSION	US-NOTICE CORRECT APPL	09/907,329	17-Jul-2001	Issued
		VEL		Due Date 30-Oct-2001	Date Taken: 30-Oct-2001			
2577.101	US	BJC	30-Dec-2001	Recd Recordal of AZ?	US-SENT ASSIGNMENT	09/155,660	18-Feb-1999	Issued
		KLW TMM		Due Date				
2577.102	US	BJC	30-Dec-2001	Recd Recordal of AZ?	US-SENT ASSIGNMENT	09/269,894	29-Sep-1997	Issued
		KLW TMM		Due Date				
2577.103	US	BJC	30-Dec-2001	Recd Recordal of AZ?	US-SENT ASSIGNMENT	09/720,295	30-Jun-1999	Issued
		KLW TMM		Due Date				
2605.101	US	RMA	30-Dec-2001	Deadline to Req Refund?	PCT-US NAT'L PHASE APP FILED	10/018,311	28-Apr-2000	Pending
		NSJ		Due Date				
				Date Taken: 01-Jan-1111	US filing date: 4/19/02			

Tuesday, September 09, 2003

## Prosecution History

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Client Matter#	Country	Attorney	Due Date	Reason for Date/ Indicator	Action	Application	Filing	Status
2605.101	US	RMA	30-Dec-2001	Recd Filing Receipt?	PCT-US NAT'L PHASE APP FILED	10/018,311	28-Apr-2000	Pending
		NSJ		Due Date	Date Taken: 07-Apr-2002			
2639.132	EP	WJS	30-Dec-2001	Sent trans as filed to cl?	Ltr fr fa encg DK translation	98909699.5	13-Feb-1998	Issued
		DD		Due Date	Date Taken: 20-Dec-2001			
2639.158	US	WJS	30-Dec-2001	Sent notice of pub to	Notice New/Revised Proj Pub	09/775,458	02-Feb-2001	Published
		DD		Due Date	Date Taken: 13-Dec-2001			



Wednesday, November 05, 2003

## Prosecution History

Page: 2

Client Matter#	Sub Case	Country	Attorney	Date Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	US	TMM	KLW	10-Oct-2001	POA/AZ to cl?	PCT-US NAT'L PHASE APP FILED	09/936,280	10-Mar-2000	Pending
					Due Date	<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack			
					<b>Date Taken:</b> 27-Sep-2001				
2373.103	US	TMM	KLW	19-Oct-2001	Call PTO re app no (see remarkx)	PCT-US NAT'L PHASE APP FILED	09/936,280	10-Mar-2000	Pending
					Due Date	<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack			
					<b>Date Taken:</b> 14-Jun-2002				
2373.103	US	TMM	KLW	10-Nov-2001	Deadline to Req Refund?	PCT-US NAT'L PHASE APP FILED	09/936,280	10-Mar-2000	Pending
					Due Date	<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack			
					<b>Date Taken:</b> 01-Jan-1111				

## Prosecution History

Client Matter#	Sub Case	Country	Attorney	Date Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	US	TMM	KLW	28-Nov-2001	Rec POA, AZ & SE fr client?	PCT-US NAT'L PHASE APP FILED	09/936,280	10-Mar-2000	Pending
					Due Date	<b>Date Taken:</b> 26-Mar-2002	<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack		
2373.103	US	TMM	KLW	10-Dec-2001	IDS (HD)	PCT-US NAT'L PHASE APP FILED	09/936,280	10-Mar-2000	Pending
					Due Date	<b>Date Taken:</b> 19-Aug-2002	<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack		
2373.103	US	TMM	KLW	03-Sep-2002	Rec'd COFR pc?	US-SENT COFR	09/936,280	10-Mar-2000	Pending
					Due Date	<b>Date Taken:</b> 04-Sep-2002	<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack		
2373.103	US	TMM	KLW	13-Sep-2002	COFR to cl?	US-SENT COFR	09/936,280	10-Mar-2000	Pending
					Due Date	<b>Date Taken:</b> 04-Sep-2002	<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack		







## Prosecution History

Client Matter#	Sub Case	Country	Attorney	Date Due	Reason for Date/ Indicator	Action Type	Application Number	Filing Date	Status
2373.103	US	TMM	KLW	10-Mar-2003	LF: 1st oa	PCT-US NAT'L PHASE APP FILED	09/936,280	10-Mar-2000	Pending
						<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack			
2373.103	US	TMM		27-Mar-2003	Filing receipt to client?	US-FILING RECEIPT ISSUED	09/936,280	10-Mar-2000	Pending
						<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack			
2373.103	US	TMM	KLW	15-Sep-2003	Copy NORA to cl?	US-SENT COFR	09/936,280	10-Mar-2000	Pending
						<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack			
2373.103	US	TMM	KLW	15-Sep-2003	Copy decision to cl?	US-PETITION FILED	09/936,280	10-Mar-2000	Pending
						<b>Remarks:</b> Applicant of PCT: Oil Mallee Company of Australia PTY LTD; NP of PCT/AU00/00171 filed 3/10/00; US filing date: 8/13/02; Send correspondence to A.P. (Tony) Mizzi at Perth Office of Griffith Hack			





05 SEP 2003  
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BROMBERG & SUNSTEIN

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
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ALEXANDRIA, VA 22313-1450  
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**DOCKETED**

Bromberg & Sunstein LLP  
125 Summer Street  
Boston, MA 02110-1618

In re Application of  
GILES, Richard Courthope, et al.  
Application No.: 09/936,280  
PCT No.: PCT/AU00/00171  
Int. Filing Date: 10 March 2000  
Priority Date: 10 March 1999  
Attorney Docket No.: 2373/103  
For: TREE HARVESTING APPARATUS

DECISION ON

PETITION

UNDER 37 CFR 1.181

This decision is in response to "Petition to Reset Period For Response Due to Non-Receipt of Action," filed with the United States Patent and Trademark Office on 05 November 2002. It has been treated as a petition under 37 CFR 1.181.

#### **BACKGROUND**

On 10 March 2000, applicants filed international application PCT/AU00/00171. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 14 September 2000. On 28 September 2000, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 10 September 2001.

On 10 September 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 30 October 2001, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905), indicating that a declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 13 August 2002, applicants submitted "Completion of Filing Requirements," indicating that applicants had not received a Notification of Missing Requirements accompanied by an executed declaration.

On 05 November 2002, applicants submitted the instant petition under 37 CFR 1.181, accompanied by a copy of the executed declaration.

On 13 March 2003, the Office mailed Notice of Acceptance (Form PCT/DO/EO/903) indicating that the application's 35 USC 371 dates were 13 August 2002.

### DISCUSSION

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Item (1) has been satisfied.

Items (2) and (3) have not been satisfied.

The declaration incorrectly identifies the filing date of the international application. Though declaration complies with 37 CFR 1.497(a)-(b), it does not comply with 37 CFR 1.63. Additionally, the declaration appears complete, but it is numbered page 1 of 9 through page 4 of 9. A new declaration in compliance with 37 CFR 1.497(a)-(b) and 37 CFR 1.63 is required.

### CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The Notification of Acceptance mailed 13 March 2003 is **VACATED**.

The application remains **ABANDONED**.

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If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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PCT Legal Examiner  
PCT Legal Administration



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**COMBINED DECLARATION AND POWER OF ATTORNEY**

**(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,  
CONTINUATION, OR C-I-P)**

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As a below named inventor, I hereby declare that:

**TYPE OF DECLARATION**

This declaration is for a national stage of PCT application.

**INVENTORSHIP IDENTIFICATION**

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am an original, first and joint inventor of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

**TITLE OF INVENTION**

Tree Harvesting Apparatus

**SPECIFICATION IDENTIFICATION**

The specification was filed on March 10, 2000, as International Application Number PCT/AU00/00171.

**ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR**

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56, and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent.

**PRIORITY CLAIM (35 U.S.C. §§ 119(a)-(d), (f) 172, and 365(a) and (b))**

I hereby claim foreign priority benefits under Title 35, United States Code, §§ 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

Such applications have been filed as follows:

**PRIOR FOREIGN APPLICATION(S) FILED WITHIN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION  
AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. § 119(a)-(d)**

COUNTRY	APPLICATION NUMBER	DATE OF FILING DAY, MONTH, YEAR	PRIORITY CLAIMED UNDER 37 U.S.C. SECTION 119
Australia	PP9126AU	10 March 1999	YES

**POWER OF ATTORNEY**

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

APPOINTED PRACTITIONER(S)	REGISTRATION NUMBER(S)
Bruce D. Sunstein	27,234
Robert M. Asher	30,445
Timothy M. Murphy	33,198
Steven G. Saunders	36,265
Samuel J. Petuchowski	37,910
Jeffrey T. Klayman	39,250
John J. Suckewers	39,387
Elizabeth P. Morano	42,904
Jay Sandvos	43,900
Alexander J. Smolenski	47,953
John L. Cooway	48,241
Kenneth S. Sachar	54,418
Shaun Montana	54,320
Charlton Shen	54,442

I hereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

SEND CORRESPONDENCE TO

Timothy M. Murphy  
125 Summer Street

Boston, MA 02110-1018  
US  
02101

DIRECT TELEPHONE CALLS TO:

Timothy M. Murphy  
617-443-9292

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the lies so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Richard Courthope Giles

Inventor's signature

Date 3rd November 2003

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